IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 5602 (MS) OF 2001

Krishi Utpadan Mandi Samiti,
Niranjanpura, New Subji Mandi,
Dehradun, through its Secretary. .....Petitioner.

Versus

1. Arhati Association (Regd.), New Subji Mandi Niranjanpura Dehradun, through its Secretary, Shri Jitendra Anand.
2. Civil Judge (Senior Division), Dehradun.
3. Additional District Judge/IIIrd F.T.C. Dehradun.

.....Respondents.

Dated: 07.07.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Rajeev Bisht, Advocate for the petitioner and Standing Counsel for the respondents no. 2 and 3.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 28th July, 2001 so far as it restrains the petitioner from raising construction between points B & C and C & D.

Briefly stated, a suit was filed by the plaintiff being Suit No. 520 of 2001 by the Arhati Association for grant of mandatory and prohibitory injunction. The petitioner has filed objections stating therein that the construction of the shops is also one of the statutory duties of the petitioner and for thue general public at large and the plaintiff ahs no locus standi to contest the suit. The Civil Judge has dismissed the injunction application on 18.07.2001.

However, aggrieved against the order dated 18.07.2001 passed by the Civil Judge (Senior Division), an appeal was preferred by the respondent no. 1 being Misc. Civil Appeal No. 105 of 2001. The appeal was partly allowed on 28.07.2001

setting aside the order dated 18.07.2001. The petitioner was permitted to construct eight shops between space shown by letters A and B and 16 shops in between space shown by letters A & B and restrained the petitioner from making construction in the remaining portion for 12 shops in the space shown between B & C and C & D. The petitioner has filed the present writ petition against the order passed by the appellate Court restraining from making constructions of remaining 12 shops in the space shown between point B & C and C & D. Both the parties have agreed that a direction may be made for expeditious disposal of the suit within a period of six months instead of modifying the interim order granted by the appellate Court.

In view of the above, writ petition is disposed of with a direction that the Prescribed Authority shall dispose of the suit No. 520 of 2001 (Arhati Association (Regd.) Versus Krishi Utpadan Mandi Samiti and another) within a period of six months from the date of presentation of the certified copy of the order.

Writ petition is disposed of. No order as costs.

(Rajesh Tandon, J.)

07.07.2006
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